



Commonwealth
of Massachusetts

OCPF Online
www.state.ma.us/ocpf
Office of Campaign and Political Finance
One Ashburton Place, Room 411
Boston, MA 02108

Advisory Opinion

May 4, 1998
AO-98-09

Thomas G. Cloherty
86 Kitteridge Street
Roslindale, MA 02131

Re: Public Employee and Political Consultant

Dear Mr. Cloherty:

This letter is in response to your April 7, 1998, letter requesting an advisory opinion regarding whether you may provide services as a political consultant to a political committee.

For the reasons set forth below, it is this office's opinion that you may provide these services on your own time provided that you do not solicit or receive, directly or indirectly, contributions or other things of value for the campaign. Since certain public employers may limit an employee's political activity for administrative reasons, however, we recommend that you review your plans with your supervisor or agency legal counsel.

Facts: You have stated that you are currently employed as a Research Analyst for the Office of the State Auditor. You also would like to provide services to Boston City Councilor Stephen J. Murphy's political committee (the "Committee") as a political consultant. You would be paid \$10,000 for these services. As a public employee, you state that you understand that you may not "raise money or participate in any fundraising; conduct political activity during working hours; [or. . .] use stationery or letterhead belonging to the Office of the State Auditor for political activity."

As a political consultant to the Committee, your responsibilities will include the following:
(a) constituent services (i.e. meeting with people in the community to resolve constituent problems;
(b) putting mailing lists together but not for fundraising purposes and drafting letters and palm cards (samples of which were attached to your letter); (c) coverage of polls on election day; (d) gathering results of phone polls; (e) gathering voter results on election day; (f) getting sign locations in the community and making sure they are put up; (g) campaigning on weekends, nights and/or vacation time **only** (your emphasis).

Discussion:

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M.G.L. c. 55, s. 13 provides that "no person employed for compensation, other than an elected official, by the commonwealth . . . shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purposes whatever . . ." Since you are a person "employed for compensation" by the commonwealth, you are subject to the restrictions against solicitation and receipt set forth in section 13. As long as you will not directly or indirectly solicit moneys or other things of value for Councilor Murphy's campaign and so long as you do not receive money or other things of value as an agent of the campaign, your activities with possibly one exception discussed below would not be prohibited by section 13.

One of the responsibilities you describe would be "putting mailing lists together." Although you state that this would not be done "for fund raising purposes," I would caution you to take care that this activity does not result in an indirect political solicitation. If you know or have reason to know that a list of supporters that you are developing for non-fund raising purposes will also be used to solicit contributions, your participation would not be consistent with section 13. As a practical matter, it may be very difficult for the campaign to avoid using a mailing list which you help develop for fund raising purposes. I would recommend, therefore, that you avoid participation in the development of mailing lists except in a clerical capacity. See AO-89-24 (helping to build data base by supplying actual contributor information is indirect solicitation prohibited by section 13) and AO-88-25 (purely clerical tasks such as data entry of campaign contributors does not constitute indirect solicitation). See also AO-90-07 (consultant's development of fundraising strategies constitutes an indirect solicitation prohibited by section 13). Copies of these opinions are enclosed for your reference and information.

You should also be aware of the provisions of M.G.L. c. 55, ss. 14-17 as well as other restrictions relevant to public employees participating in campaign activities. Section 14 provides that no person, whether state employee or otherwise, shall "in any building occupied for state, county or municipal purposes demand, solicit or receive any payment or gift of money or other thing of value" for political campaign purposes. Sections 16 - 17 prohibit the coercion of contributions or political services from public employees and others. See enclosed *Guide to Political Activity for State, County and Municipal Employees*. Please note that the prohibitions in section 13 as well as sections 14-17 apply even if you provide services only before or after work or on weekends.

This opinion is issued within the context of the Massachusetts campaign finance law and is provided on the basis of representations in your letter. Please contact us if you have further questions.

Sincerely,

A handwritten signature in black ink, reading "Michael J. Sullivan" with a horizontal line extending to the right.

Michael J. Sullivan
Director